

Jesse A. Kaplan, Esq. (SBN 255059)
jkaplan@ftllp.com
September Rea (SBN 261121)
srea@ftllp.com
FREEDMAN & TATELMAN, LLP
1901 Avenue of the Stars, Suite 500
Los Angeles, CA 90067
Telephone: (310) 201-0005
Facsimile: (310) 201-0045

Attorneys for Defendants Keenen Ivory Wayans,
Shawn Wayans, Marlon Wayans,
Wayans Bros. Productions, and
St. Martin's Press, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JARED PLAINTIFF.

Plaintiff

VS.

KEENEN IVORY WAYANS,
SHAWN WAYANS, MARLON
WAYANS, WAYANS BROTHERS
PRODUCTIONS, AND ST.
MARTIN'S PRESS, INC..

Defendants.

CASE NO. 2:10-cv-02231 R (RCX)

[Honorable Manuel Real,
Courtroom 8, USDC - Central District]

DEFENDANTS' PROPOSED JURY VERDICT FORMS

Trial Date: July 12, 2011

1 **No 1: Copyright – Ownership of Valid Copyright**

| | | | |
|---|---|--|----|
| 3 Requested by 4 Plaintiff | 5 Requested by 6 Defendant | 7 Requested by | 8 |
| 9 Given as 10 Requested | 11 Given as 12 Modified | 13 Given on Court's 14 Motion | 15 |
| 16 Refused | 17 | | |
| 18 Withdrawn | 19 Judge_____ | | |

20
21 We answer the questions submitted to us as follows:

22
23 1. Was Plaintiff Jared Plaintiff (“Plaintiff”) the creator or author of the list
24 of jokes entitled *You Know You’re a Golddigger When...?*

25 ____ Yes ____ No

26 If your answer to question 1 is yes, then answer question 2. If your
27 answer to question 1 is no, then stop here, answer no further questions
28 on this form, and have the presiding juror sign and date this form.

29
30 2. Are the jokes on the list referred to as *You Know You’re a Golddigger*
31 *When...* original jokes?

32 ____ Yes ____ No

33
34 Signed: _____
35 Presiding Juror

36
37 Dated: _____

1 After all applicable verdict forms have been signed, deliver this verdict form to the
2 clerk. If your answer to both questions 1 and 2 is yes, proceed to verdict form
3 Number 2. If your answer to either question on this form is no, Plaintiff does not
4 own a valid copyright. Skip to verdict form Number ____ (Breach of Implied-In-Fact
5 Contract).

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1 **No 2: Copyright - Work for Hire**

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|---|--|---|--|--|--|
| 3 Requested by 4 Plaintiff | | 5 Requested by 6 Defendant | | 7 Requested by | |
| 6 Given as 7 Requested | | 6 Given as 7 Modified | | 6 Given on Court's 7 Motion | |
| 7 Refused | | | | | |
| 8 Withdrawn | | 9 Judge _____ | | | |

11
12 We answer the question submitted to us as follows:

13
14 1. Was Plaintiff working within the scope of his employment for the
15 Wayans Defendants or one of their businesses when he worked on the list of jokes
16 entitled *You Know You're a Golddigger When...?*

17 _____ Yes _____ No

18
19 Signed: _____
20 Presiding Juror

21 Dated: _____

22
23
24 After all applicable verdict forms have been signed, deliver this verdict form to the
25 clerk. If your answer to questions 1 is no, proceed to verdict form Number 3. If your
26 answer to this question is yes, Plaintiff does not own a valid copyright in the work at
27 issue because it was a work for hire. Skip to verdict form Number _____ (Breach of
28 Implied-In-Fact Contract).

1 **No 3: Copyright – Infringement**

| | | | | | |
|---|--|---|--|--|--|
| 3 Requested by 4 Plaintiff | | 5 Requested by 6 Defendant | | 7 Requested by | |
| 6 Given as 7 Requested | | 6 Given as 7 Modified | | 6 Given on Court's 7 Motion | |
| 7 Refused | | | | | |
| 8 Withdrawn | | 9 Judge _____ | | | |

11
12 We answer the question submitted to us as follows:

13 1. Did the Defendants publish original jokes authored or created by
14 Plaintiff in the book *101 Ways to Know You're a Golddigger*?

15 _____ Yes _____ No

16
17
18 Signed: _____
19 Presiding Juror

20 Dated: _____

21 After all applicable verdict forms have been signed, deliver this verdict form to the
22 clerk. If your answer to question 1 is yes, proceed to verdict form Number 4. If your
23 answer to either question on this form is no, Defendants did not infringe on Plaintiff's
24 copyright. Skip to verdict form Number _____ (Breach of Implied-In-Fact Contract).

No 4: Waiver of Copyright Infringement Based on Plaintiff's Consent

| | | | | | |
|------------------------|--|------------------------|--|-------------------------|--|
| Requested by Plaintiff | | Requested by Defendant | | Requested by | |
| Given as Requested | | Given as Modified | | Given on Court's Motion | |
| Refused | | | | | |
| Withdrawn | | Judge _____ | | | |

We answer the questions submitted to us as follows:

1. Did Plaintiff verbally tell any of the Wayans Defendants that they could use his jokes in the book *101 Ways to Know You're a Golddigger*?

Yes No

If your answer to question 1 is no, then answer question 2. If your answer to question 1 is yes, then stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. At any time prior to the publication of the book *101 Ways to Know You're a Golddigger*, did Plaintiff believe that the Wayans Defendants were considering using his jokes in that book?

Yes No

If your answer to question 2 is yes, then answer question 3. If your answer to question 2 is no, then stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

1 3. Prior to the publication of book *101 Ways to Know You're a Golddigger*,
2 did Plaintiff appear to consent to the Wayans Defendants' use of his jokes by
3 encouraging the Wayans to use his jokes in that book?

4 ____ Yes ____ No

5 If your answer to question 3 is no, then answer question 4. If your
6 answer to question 3 is yes, then stop here, answer no further questions
7 on this form, and have the presiding juror sign and date this form.

8 4. Prior to the publication of book *101 Ways to Know You're a Golddigger*,
9 did Plaintiff appear to consent to the Wayans Defendants' use of his jokes by not
10 voicing any objection to their use of his jokes in that book?

11 ____ Yes ____ No

12 Signed: _____
13
14 Presiding Juror

15 Dated: _____

16 After all applicable verdict forms have been signed, deliver this verdict form to the
17 clerk. If your answer to all answered questions on this form is no, proceed to verdict
18 form Number 5. If your answer to questions 1, 3 or and 4 is yes, Plaintiff has waived
19 any copyright infringement. Skip to verdict form Number ____ (Breach of Implied-
20 In-Fact Contract).

1 **No 5: Copyright – Joint Authors**

| | | | | | |
|---|--|---|--|--|--|
| 3 Requested by 4 Plaintiff | | 3 Requested by 4 Defendant | | 3 Requested by 4 | |
| 5 Given as 6 Requested | | 5 Given as 6 Modified | | 5 Given on Court's 6 Motion | |
| 7 Refused | | | | | |
| 8 Withdrawn | | 8 Judge _____ | | | |

11 We answer the question submitted to us as follows:

12 1. Was the book *101 Ways to Know You're a Golddigger* a joint work to
13 which both Plaintiff and the Wayans Defendants (or the Wayans Defendants'
14 employees or agents) contributed to with the intent that their contributions would be
15 merged into one book?

16 _____ Yes _____ No

17
18
19 Signed: _____
20 Presiding Juror

21 Dated: _____

22 After all applicable verdict forms have been signed, deliver this verdict form to the
23 clerk. Please proceed to verdict form Number 6.

No 6: Copyright Infringement -- Plaintiff's Recovery of the Wayans Defendants' Profits

| | | | | | |
|------------------------|--|------------------------|--|-------------------------|--|
| Requested by Plaintiff | | Requested by Defendant | | Requested by | |
| Given as Requested | | Given as Modified | | Given on Court's Motion | |
| Refused | | | | | |
| Withdrawn | | Judge _____ | | | |

We answer the questions submitted to us as follows:

GROSS REVENUE

1. Did the Wayans Defendants earn revenue from the book *101 Ways to Know You're a Golddigger* in the form of an advance paid by the book's publisher?

Yes No

If your answer to question 1 is yes, then answer question 2. If your answer to question 1 is no, then stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. What is the amount of gross revenue that the Wayans Defendants earned from the book *101 Ways to Know You're a Golddigger* in the form of an advance paid by the book's publisher?

\$

Regardless of your answer to question 2, answer question 3.

NET PROFITS

3. What are the expenses that the Wayans Defendants incurred related to the book *101 Ways to Know You're a Golddigger*?

- a. Commissions to their talent agent? \$ _____
- b. Artists fees and salaries? \$ _____
- c. Overhead related to the book *101 Ways to Know You're a Golddigger* including without limitation, office rent and employee salaries? \$ _____
- d. Any other expenses related to the book *101 Ways to Know You're a Golddigger?* \$ _____

TOTAL EXPENSES: \$ _____

Regardless of your answer to question 3, answer question 4.

4. To compute the Wayans Defendants' net profits, deduct all expenses related to the book *101 Ways to Know You're a Golddigger* identified in the response to question 3 from the Wayans Defendants' gross revenue from that book identified in the response to question 2:

Regardless of your answer to question 4, answer question 5.

APPORTIONMENT OF PROFITS TO INFRINGEMENT

5. Would the publisher St. Martin's Press have purchased the rights to the book *101 Ways to Know You're a Golddigger* and paid the Wayans Defendants the total amount of the advance even without Plaintiff's jokes?

Yes No

If your answer to question 5 is no, then answer question 6. If your answer to question 5 is yes, then stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

6. What percentage of the advance paid by the publisher for the book *101 Ways to Know You're a Golddigger* is attributable to elements other than Plaintiff's jokes?

- a. The Wayans Defendants' celebrity and perceived name recognition? _____ %
- b. The Wayans Defendants' brand? _____ %
- c. The artwork in the book? _____ %
- d. Jokes in the book that were not written by Plaintiff? _____ %
- d. Any other creative contributions to the book, including without limitation, the Wayans' Defendants' other creative contributions? _____ %
- e. Any other factors? _____ %

1 TOTAL PERCENTAGE ATTRIBUTABLE TO OTHER FACTORS: _____ %
2

3 Regardless of your answer to question 6, answer question 7.
4

5 7. Subtract the total percentage identified in your response to question 6
6 from 100% to calculate the percentage of the Wayans Defendants' profits attributable
to their publication of Plaintiff's jokes:
7

8 _____ %
9

10 8. Multiply the percentage identified in the response to question 7 by the
11 net profits identified in the response to question 4:
12

13 \$ _____
14

15 Signed: _____
16 Presiding Juror
17

18 Dated: _____
19

20 After all applicable verdict forms have been signed, deliver this verdict form to the
21 clerk. Please proceed to verdict form Number _____ (Breach of Implied-In-Fact
22 Contract).
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1 **No 7: Breach of Implied Contract – Statute of Limitations**

| | | | | | |
|---|--|---|--|--|--|
| 3 Requested by 4 Plaintiff | | 5 Requested by 6 Defendant | | 7 Requested by | |
| 6 Given as 7 Requested | | 6 Given as 7 Modified | | 6 Given on Court's 7 Motion | |
| 7 Refused | | | | | |
| 8 Withdrawn | | 9 Judge _____ | | | |

11
12 We answer the questions submitted to us as follows:

13 1. At any time prior to December 17, 2007, did Plaintiff know that the
14 Wayans Defendants intended on including any portion of his original jokes in a book
15 that would be entitled *101 Ways to Know You're a Golddigger?*

16 _____ Yes _____ No

17
18
19 Signed: _____
20 Presiding Juror

21 Dated: _____

22 After all verdict forms have been signed, deliver this verdict form to the clerk. If
23 your answer to question 1 of this form is yes, Plaintiff's cause of action for breach of
24 implied contract is barred by the applicable two year statute of limitations.

1 Dated: July 5, 2011

FREEDMAN & TAITELMAN, LLP

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3 By: _____/s/
4 Jesse A. Kaplan, Esq.
5 September Rea, Esq.
6 Attorneys for Defendants Keenen Ivory
Wayans, Shawn Wayans, Marlon Wayans,
Wayans Bros. Productions, and St. Martin's
Press, LLC

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